

104TH CONGRESS
1ST SESSION

H. R. 808

To amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of certain civilians accompanying the Armed Forces outside the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1995

Mr. THOMAS (for himself, and Mr. McKEON) introduced the following bill;
which was referred to the Committee on National Security

A BILL

To amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of certain civilians accompanying the Armed Forces outside the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. CRIMINAL OFFENSES COMMITTED OUTSIDE**
2 **THE UNITED STATES BY PERSONS SERVING**
3 **WITH, EMPLOYED BY, OR ACCOMPANYING**
4 **THE ARMED FORCES.**

5 (a) IN GENERAL.—Subtitle A of title 10 of the
6 United States Code is amended by inserting after chapter
7 49 the following new chapter:

8 **“CHAPTER 50—CRIMINAL OFFENSES COMMITTED**
9 **OUTSIDE THE UNITED STATES**

“Sec.

“991. Persons serving with, employed by, or accompanying the armed forces
outside United States: trial by United States.

“992. Persons serving with, employed by, or accompanying the armed forces
outside the United States: delivery to authorities of foreign
country.

“993. Military tribunals: concurrent jurisdiction.

“994. Regulations.

“995. Definitions.

10 **“§ 991. Persons serving with, employed by, or accom-**
11 **panying the armed forces outside United**
12 **States: trial by United States**

13 “(a) Except as otherwise provided in this section, any
14 person who, while serving with, employed by, or accom-
15 panying the armed forces outside of the United States,
16 engages in conduct which would constitute a criminal of-
17 fense if the conduct were engaged in within the special
18 maritime and territorial jurisdiction of the United States
19 shall be guilty of a like offense against the United States
20 and shall be subject to the same punishment as is provided
21 under title 18 for such like offense.

1 “(b) A person serving with, employed by, or accom-
2 panying the armed forces outside the United States is not
3 punishable under subsection (a) for conduct described in
4 that subsection if that person is not a national of the
5 United States and was appointed to that person’s position
6 of employment in the country in which the person engaged
7 in that conduct.

8 “(c)(1) Except in the case of a prosecution approved
9 as provided in paragraph (2) or a prosecution before a
10 court-martial, military commission, provost court, or other
11 military tribunal, prosecution of a person may not be com-
12 menced under this section for an offense described in sub-
13 section (a) if a foreign government, in accordance with ju-
14 risdiction recognized by the United States, has prosecuted
15 such person for the conduct constituting the offense de-
16 scribed in subsection (a).

17 “(2) The Attorney General of the United States, the
18 Deputy Attorney General of the United States, the Associ-
19 ate Attorney General of the United States, or an Assistant
20 Attorney General of the United States may approve a
21 prosecution which, except for this paragraph, is prohibited
22 under paragraph (1). An approval of prosecution under
23 this paragraph must be in writing. The authority to ap-
24 prove a prosecution under this paragraph may not be dele-
25 gated below the level of Assistant Attorney General.

1 “(d)(1) The Secretary of Defense may designate and
2 authorize any person serving in a law enforcement position
3 in a criminal investigative agency of the Department of
4 Defense to apprehend and detain, outside the United
5 States, any person described in subsection (a) who is rea-
6 sonably believed to have engaged in an offense under that
7 subsection.

8 “(2) A person apprehended and detained under para-
9 graph (1) shall be released to the custody of civilian law
10 enforcement authorities of the United States for removal
11 to the United States for judicial proceedings in relation
12 to the conduct referred to in that paragraph unless (A)
13 that person is delivered to authorities of a foreign country
14 under section 992 of this title, or (B) that person is pend-
15 ing court-martial under chapter 47 of this title (the Uni-
16 form Code of Military Justice) for charges arising from
17 such conduct.

18 **“§ 992. Persons serving with, employed, by or accom-**
19 **panying the armed forces outside the**
20 **United States: delivery to authorities of**
21 **foreign country**

22 “(a) A person designated and authorized under sec-
23 tion 991(d) of this title may deliver any person to the ap-
24 propriate authorities of a foreign country in which that

1 person is alleged to have engaged in an offense under sec-
2 tion 991(a) of this title if—

3 “(1) the appropriate authorities of that country
4 request the delivery of the person to such country
5 for trial for such conduct as an offense under the
6 laws of that country; and

7 “(2) the delivery of such person to that country
8 is authorized by a treaty or other international
9 agreement to which the United States is a party.

10 “(b) The Secretary of Defense may confine or other-
11 wise restrain a person whose delivery is requested under
12 subsection (a) until the completion of the trial of that per-
13 son by the foreign country making the request.

14 “(c) The Secretary of Defense shall determine what
15 officials of a foreign country constitute appropriate au-
16 thorities for the purposes of this section.

17 **“§ 993. Military tribunals: concurrent jurisdiction**

18 “Nothing contained in this chapter deprives courts-
19 martial, military commissions, provost courts, or other
20 military tribunals of concurrent jurisdiction with respect
21 to offenders or offenses that by statute or by the law of
22 war may be tried by courts-martial, military commissions,
23 provost courts, or other military tribunals.

1 **“§ 994. Regulations**

2 “The Secretary of Defense shall prescribe regulations
3 governing apprehension, detention, and removal of persons
4 under this chapter. Such regulations shall apply uniformly
5 throughout the Department of Defense.

6 **“§ 995. Definitions**

7 “In this chapter:

8 “(1) The term ‘person serving with, employed
9 by, or accompanying the armed forces outside of the
10 United States’ includes a person who is—

11 “(A) a dependent of a member of the
12 armed forces residing with the member outside
13 the United States;

14 “(B) a civilian employee of a military de-
15 partment who is not a national of the host na-
16 tion and is residing outside the United States
17 in connection with that employment or a de-
18 pendent of such an employee who is residing
19 with that employee outside the United States;
20 and

21 “(C) an employee of a Department of De-
22 fense contractor who is not a national of the
23 host nation and is residing outside the United
24 States in connection with that employment or a
25 dependent of such an employee who is residing
26 with that employee outside the United States.

1 “(2) The term ‘criminal offense’ means an of-
 2 fense against the United States other than an in-
 3 fraction.

4 “(3) The term ‘national of the United States’
 5 means—

6 “(A) a citizen of the United States; or

7 “(B) a person who, though not a citizen of
 8 the United States, owes permanent allegiance to
 9 the United States.

10 “(4) The term ‘United States’, when used in a
 11 geographical sense, includes the special maritime
 12 and territorial jurisdiction of the United States.

13 “(5) The term ‘special maritime and territorial
 14 jurisdiction of the United States’ has the meaning
 15 given that term in section 7 of title 18.”.

16 (b) CLERICAL AMENDMENT.—The tables of chapters
 17 at the beginning of such subtitle, and at the beginning
 18 of part II of such subtitle, are each amended by inserting
 19 after the item relating to chapter 49 the following:

**“50. Criminal Offenses Committed Outside the United
 States 991”.**

